

HOUSE BILL 3842

By Maddox

AN ACT to amend Tennessee Code Annotated, Title 68,
Chapter 215, Part 1, relative to petroleum
underground storage tanks.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-215-103, is amended by inserting in subsection (13) the language, "or was formerly" before the word, "located" so that as amended it shall read as follows:

(13) "Petroleum site" means any site or area where a petroleum underground storage tank is or was formerly located.

SECTION 2. Tennessee Code Annotated, Section 68-215-103(17), is amended by adding the following as subdivision (C) and redesignating the existing subdivision (C) accordingly:

(C) Any person whose actions cause or contribute to the release of petroleum at a petroleum site.

SECTION 3. Tennessee Code Annotated, Section 68-215-104, is amended by adding a new, appropriately designated subsection, as follows:

() Knowingly submit to the department any false writing or document, including one in electronic format, containing any materially false, fictitious or fraudulent statement or entry; knowingly make any materially false, fictitious, or fraudulent statement or representation; or knowingly falsify, conceal, or cover up a material fact.

SECTION 4. Tennessee Code Annotated, Section 68-215-114, is amended by adding the following language after the first sentence of subsection (a), redesignating the remaining

three sentences of subsection (a) as subsection (b) and redesignating the remaining subsection:

The Commissioner may issue an order to the responsible party to close the UST system or use the petroleum underground storage tank fund to permanently close the UST system and seek cost recovery if the Commissioner determines:

(1) that a UST system has a tank, piping, or a dispenser that is not in compliance with spill and overflow protection, corrosion protection, or secondary containment and interstitial monitoring requirements of the rules;

(2) that a tank has not been brought into compliance within six (6) months of being red tagged; or

(3) that all fees, penalties, and interest have not been paid on a tank at the time the tank is billed for fees for the following year.

SECTION 5. Tennessee Code Annotated, Section 68-215-114, is further amended by deleting the words, "responsible person" and substituting instead, "responsible party" in the first sentence.

SECTION 6. Tennessee Code Annotated, Section 68-215-115, is amended by deleting it in its entirety and substituting instead the following:

(a) Whenever the commissioner begins to expend money for the investigation, identification, containment or clean-up of a particular site under this part, the commissioner may issue an order to any responsible party assessing that party's apportioned share of all costs expended or to be expended. Service of such an order shall be made by either by personally serving the responsible party by certified mail.

(b)

(1) In assessing a party's apportioned share, the commissioner may consider equitable factors, including, but not limited to, the following:

(A) Any monetary or other benefit accruing to each responsible party from the release of petroleum at the site;

(B) The culpability of each responsible party in regard to the release of petroleum at the site;

(C) Efforts of each responsible party to restore the land, water, air and all other aspects of the site and any other affected property to its natural condition and to cooperate with the department in its work to investigate, contain or clean-up the release of petroleum at the site;

(D) Any expenditures required by the provisions of this part made by a responsible party shall be credited toward that party's share of the cost;

(E) The monetary benefit accruing to a property owner as a result of the clean-up of the release if, at the time of acquisition of the site, such owner knew or should have known that a petroleum release had occurred at the site; and

(F) The monetary benefit accruing to an owner as a result of the clean-up of the release if such owner was the owner at the time that a petroleum release had occurred at the site and knew or should have known of such disposal.

(2) Any person against whom an assessment is issued may secure a review of the propriety or amount of such assessment by filing with the commissioner a written petition setting forth the grounds and reasons for the objection and asking for a hearing before the petroleum underground storage tank board. Any such assessment shall become final and not subject to review

unless the person named therein files such a petition within thirty (30) days after it is received.

(3) In no event shall the total moneys recovered from the responsible party or parties exceed the total expenditure from the fund for such site, except that the commissioner may assess civil penalties as provided in § 68-215-121.

(4) The fund shall pay any portion of the total expenditure in excess of the aggregate amount of costs or expenditures apportioned pursuant to this section. All moneys recovered from responsible parties pursuant to this section shall be deposited in the fund.

SECTION 7. Tennessee Code Annotated, Section 68-215-121, is amended by deleting the second sentence of subdivision (b)(1) and substituting instead, "Service of such assessment shall be made either by personally serving the party or by certified mail."

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.